

February 12, 2008

Mr. Jerry Griffin
Director of Legislative Affairs
Wayne County Executive Office

Re: HB 5455

Dear Mr. Griffin:

You have asked us to explain why HB 5455 does not encourage leasing real property as opposed to owning it. There are a number of reasons why HB 5455 does not encourage or otherwise promote leasing of real property as opposed to private ownership.

1. The purpose of HB 5455 is to prevent the taxation of Land Bank Property when it is leased to or otherwise used by a private party. A careful review of the Land Bank Fast Track Act, the Tax Reverted Clean Title Act, and the General Property Tax Act clearly indicates that taxation of property owned by a Land Bank Authority would commence only after a Land Bank Authority conveys the property to a private user. There was no intent to subject Land Bank property to 100% taxation pursuant to Act 189 (1953 PA 189).

2. Whether real property is leased to a private party is determined solely by a Land Bank Authority. There is a built in incentive for a Land Bank Authority to convey property to a private user because the Tax Reverted Clean Title Act imposes a specific tax on property conveyed by a Land Bank Authority, 50% of which is payable to the Land Bank Authority. Thus, there is no economic incentive for a Land Bank Authority or its incorporating municipality to lease property to a private user, as it would deprive the Land Bank Authority of operating revenue.

3. The primary purpose of the Land Bank Fast Track Act is to get property into productive use and back on the tax rolls. There may be some instances, however, where a Land Bank Authority may determine that, in order to get a project started, it may be necessary to lease real property to a private user. There may be situations where a developer may not be willing to make the capital investment in a project if the property would be subject to 100% taxation under the provisions of Act 189.

4. Some projects may require a startup period of up to five years in order to determine whether or not a development will be economically successful. Developers and banks may not be willing to finance such projects if the capital investments are subject to municipal tax liens.

5. The fact that real property may be exempt from ad valorem property taxation for a limited period of time should not encourage leasing of property since it is a well recognized economic principal that benefits of ownership exceeds those of leasing property. Furthermore, leasing property denies the lessee of participation in the

appreciated value.

6. As a general proposition, banks prefer lending to entities that have an ownership interest in real property. If the option to lease property was left to the discretion of the developer (which it is not) banks may require that the developer have an ownership interest in the property so that it may be subject to the mortgage interests of the Bank.

In conclusion, it is our view that HB 5455 would not encourage Land Bank Authorities to lease its property as opposed to conveying it to private parties for the reasons set forth above. It is our understanding that leasing property would be used in limited circumstances where a leasing is necessary to the initial start up of a development.

Should you have any questions or comments regarding this matter, please do not hesitate to contact the undersigned.

Very truly yours,

Carl F. Stafford

CFS/cb